



Pete Ricketts
Governor

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STATE OF NEBRASKA

NEBRASKA REAL ESTATE COMMISSION

Greg Lemon

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TO: Nebraska Real Estate Commission Members

FROM: Greg Lemon, Director

RE: Revised Agency Disclosure Form

DATE: February 11, 2015

At the November meeting of the Nebraska Real Estate Commission a draft of the revised agency disclosure form was presented and discussed. At that meeting staff was directed to forward the draft to the Nebraska Realtor's Association for comment before final approval.

The Board of Directors of the Nebraska Realtor's Association has reviewed and approved the form.

The last meeting also left open the issue of whether a one page unified form would be used, or a tear off type form, similar to current practice would be retained, or whether both would be made available. I have also received input from individual licensees on this issue since then, and the strong majority seems to favor the one page form, as did the majority of the joint task force that was initially created to work on this form. So the unified, no-tear off form is what is provided.

At the suggestion of a number of licensees additional checkmark space was provided so both husband and wife to initial the space for type of agency provided, and the wording was changed slightly to reflect this.

The further consumer information link provided on the forms is now live, I would urge you to take a look at what is provided there.

REAL ESTATE COMMISSION MEMBERS

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Public Member, Norfolk

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Agency Disclosure Information for Tenants and Landlords

Company _____ Agent Name _____

Nebraska law requires all real estate licensees provide this information outlining the types of real estate services being offered.

For additional information on agency and consumer protection go to: <http://www.nrec.ne.gov/consumer-info/index.html>

The agency relationship offered is (initial one of the spaces below, both parties initial if married):

Limited Landlord's Agent

- Works for the landlord
- Shall not disclose any confidential information about the landlord unless required by law
- May be required to disclose to a tenant otherwise undisclosed adverse material facts about the property
- Must present all written offers to and from the landlord in a timely manner
- Must exercise reasonable skill and care for the landlord and promote the landlord's interests

A written agreement is required to create a landlord's agency relationship

Limited Tenant's Agent

- Works for the tenant
- Shall not disclose any confidential information about the tenant unless required by law
- May be required to disclose to a landlord adverse material facts including facts related to tenant's ability to financially perform the transaction
- Must present all written offers to and from the tenant in a timely manner
- Must exercise reasonable skill and care for the tenant and promote the tenant's interests

A written agreement is not required to create a tenant's agency relationship

Limited Dual Agent

- Works for both the tenant and landlord
- May not disclose to landlord that tenant is willing to pay more than the price offered
- May not disclose to tenant that landlord is willing to accept less than the asking price
- May not disclose the motivating factors of any client
- Must exercise reasonable skill and care for both tenant and landlord

A written disclosure and consent to dual agency required for all parties to the transaction

Customer Only (see reverse side for list of tasks agent may perform for a customer)

- **Agent does not work for you**, agent works for another party or potential party to the transaction as:
 Limited Tenant's Agent Limited Landlord's Agent
 Common Law Agent (attach addendum)
- Agent may disclose confidential information that you provide to agent to his or her client
- Agent must disclose otherwise undisclosed adverse material facts:
 - about a property to you as a tenant/customer
 - about tenant's ability to financially perform the transaction to you as a landlord/customer
- Agent may not make substantial misrepresentations

 Common Law Agent for Tenant Landlord (complete and attach Common Law Agency Addendum)

THIS IS NOT A CONTRACT AND DOES NOT CREATE ANY FINANCIAL OBLIGATIONS. By signing below, I acknowledge that I have received the information contained in this agency disclosure and that it was given to me at the earliest practicable opportunity during or following the first substantial contact with me and, further, if applicable, as a customer, the licensee indicated on this form has provided me with a list of tasks the licensee may perform for me.

Acknowledgement of Disclosure

(Client or Customer Signature) (Date)

(Client or Customer Signature) (Date)

(Print Client or Customer Name)

(Print Client or Customer Name)

Agency Disclosure Information for Buyers and Sellers

Company _____ Agent Name _____

Nebraska law requires all real estate licensees provide this information outlining the types of real estate services being **offered**.
For additional information on Agency Disclosure and more got to: <http://www.nrec.ne.gov/consumer-info/index.html>

The agency relationship offered is (initial one of the spaces below, both parties initial if married):

Limited Seller's Agent

- Works for the seller
- Shall not disclose any confidential information about the seller unless required by law
- May be required to disclose to a buyer otherwise undisclosed adverse material facts about the property
- Must present all written offers to and from the seller in a timely manner
- Must exercise reasonable skill and care for the seller and promote the seller's interests

A written agreement is required to create a seller's agency relationship

Limited Buyer's Agent

- Works for the buyer
- Shall not disclose any confidential information about the buyer unless required by law
- May be required to disclose to a seller adverse material facts including facts related to buyer's ability to financially perform the transaction
- Must present all written offers to and from the buyer in a timely manner
- Must exercise reasonable skill and care for the buyer and promote the buyer's interests

A written agreement is **not** required to create a buyer's agency relationship

Limited Dual Agent

- Works for both the buyer and seller
- May not disclose to seller that buyer is willing to pay more than the price offered
- May not disclose to buyer that seller is willing to accept less than the asking price
- May not disclose the motivating factors of any client
- Must exercise reasonable skill and care for both buyer and seller

A written disclosure and consent to dual agency required for all parties to the transaction

 Customer Only (see reverse side for list of tasks agent may perform for a customer)

- **Agent does not work for you**, agent works for another party or potential party to the transaction as:
 Limited Buyer's Agent Limited Seller's Agent
 Common Law Agent (attach addendum)
- Agent may disclose confidential information that you provide agent to his or her client
- Agent must disclose otherwise undisclosed adverse material facts:
 - about a property to you as a buyer/customer
 - about buyer's ability to financially perform the transaction to you as a seller/customer
- Agent may not make substantial misrepresentations

 Common Law Agent for Buyer Seller (complete and attach Common Law Agency addendum)

THIS IS NOT A CONTRACT AND DOES NOT CREATE ANY FINANCIAL OBLIGATIONS. By signing below, I acknowledge that I have received the information contained in this agency disclosure and that it was given to me at the earliest practicable opportunity during or following the first substantial contact with me and, further, if applicable, as a customer, the licensee indicated on this form has provided me with a list of tasks the licensee may perform for me.

Acknowledgement of Disclosure

(Client or Customer Signature) (Date)

(Print Client or Customer Name)

(Client or Customer Signature) (Date)

(Print Client or Customer Name)

**Agency Disclosure
Common Law Agency Addendum
(Attach to Agency Disclosure)**

Company _____ Agent Name _____

Common Law Agent

*The duties and obligations of an agent under a common law agency agreement exceed the duties and obligations of a limited agent as described in the agency disclosure document and in Nebraska Statutes, Neb. Rev. Stat. § 76-2401 through 76-2430. For example, a licensee who is authorized by the principal to bind the principal to terms or conditions in a real estate transaction would be a common law agent. **A buyer, tenant, seller, or landlord and the real estate broker must enter into this type of agency through a written agreement which specifies the agent's duties and responsibilities, including the duty of confidentiality and the terms of compensation. An agreement such as this will be subject to the common law requirements of agency applicable to real estate licensees.***

If Agency relationship offered is Customer Only, and agent is acting as a common law agent for another party to the transaction please check the appropriate box below:

Agent will act as--

- ____ Common Law Agent for the Buyer
- ____ Common Law Agent for the Seller
- ____ Common Law Agent for the Tenant
- ____ Common Law Agent for the Landlord

I acknowledge that this addendum page and the additional information on common law agency has been presented to me (us):

(Client or Customer Signature) (Date)

(Client or Customer Signature) (Date)

(Print Client or Customer Name)

(Print Client or Customer Name)